

111TH CONGRESS  
1ST SESSION

# H. R. 2148

To promote the development and use of marine renewable energy technologies,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2009

Mr. INSLEE (for himself, Mrs. MALONEY, Mr. BLUMENAUER, Mr. WEXLER, Mr. DELAHUNT, Mr. VAN HOLLEN, and Mr. ENGEL) introduced the following bill; which was referred to the Committee on Science and Technology, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote the development and use of marine renewable  
energy technologies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Renewable En-  
5 ergy Promotion Act of 2009”.

### 6 **SEC. 2. DEFINITION.**

7 For purposes of this Act, the term “marine renewable  
8 energy” means energy from—

1           (1) waves, tides, and currents in oceans, estu-  
2       aries, and tidal areas;

3           (2) free flowing water in rivers, lakes, man  
4       made channels, streams, oceans, and tidal areas; and

5           (3) differentials in ocean temperature (ocean  
6       thermal energy conversion).

7   **SEC. 3. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.**

8       (a) PROGRAM.—The Secretary of Energy shall estab-  
9       lish a program of marine renewable energy research, sepa-  
10      rated from the Wind and Hydropower program, focused  
11      on—

12           (1) developing new marine renewable energy  
13      technologies;

14           (2) reducing the manufacturing and operation  
15      costs of marine renewable energy technologies;

16           (3) increasing the reliability and survivability of  
17      marine renewable energy facilities;

18           (4) integrating marine renewable energy into  
19      the national electric grid;

20           (5) identifying opportunities for cross polli-  
21      nation and development of economies of scale be-  
22      tween offshore wind and marine renewable energy  
23      sources;

1           (6) identifying the environmental impacts of  
2       marine renewable energy and ways to address nega-  
3       tive impacts; and

4           (7) application of advanced systems engineering  
5       and system integration methods to identify critical  
6       interfaces and develop open standards for marine re-  
7       newable energy, the transfer of the resulting intellec-  
8       tual property to industry stakeholders as public in-  
9       formation through published interface definitions,  
10      standards, and demonstration projects, and the de-  
11      velopment of incentives for industry to comply with  
12      such standards.

13      (b) MARINE-BASED ENERGY DEVICE VERIFICATION  
14      PROGRAM.—

15           (1) ESTABLISHMENT.—The Secretary of En-  
16      ergy shall establish a Marine-based Energy Device  
17      Verification Program (MEDVP) to provide a bridge  
18      from the wave, tidal, or current energy capture de-  
19      vice design and development efforts underway across  
20      the industry to commercial deployment of marine re-  
21      newable energy devices.

22           (2) PURPOSES.—The Marine-based Energy De-  
23      vice Verification Program shall fund, facilitate the  
24      development and installation of, and evaluate marine  
25      renewable energy projects, in partnership with the

1 Electric Power Research Institute, the National Re-  
2 newable Energy Laboratory, the Pacific Northwest  
3 National Laboratory Marine Sciences Laboratory,  
4 the Sandia National Laboratories, in conjunction  
5 with universities and private companies, and other  
6 appropriate organizations, in order to—

7 (A) increase marine renewable energy ex-  
8 perience; and

9 (B) build and operate enough candidate  
10 devices to obtain statistically significant oper-  
11 ating and maintenance data.

12 (3) OBJECTIVES.—Specific objectives for the  
13 Marine-based Energy Device Verification Program  
14 shall include—

15 (A) verifying the performance, reliability,  
16 maintainability, and cost of new marine renew-  
17 able energy device designs and system compo-  
18 nents in an operating environment;

19 (B) providing States, regulators, utilities,  
20 and other stakeholders with a valid opportunity  
21 to test and evaluate marine renewable energy in  
22 new areas;

23 (C) documenting and communicating the  
24 experience from these projects for the benefit of  
25 utilities, independent power producers, other

1 nonutility generators, device suppliers, and oth-  
2 ers in the marine renewable energy development  
3 community; and

4 (D) resolving environmental issues through  
5 robust characterization, reliable impact pre-  
6 diction, effective monitoring, development and  
7 use of adaptive management, and informing en-  
8 gineering design to improve environmental per-  
9 formance.

10 (c) ADAPTIVE MANAGEMENT AND ENVIRONMENTAL

11 FUND.—

12 (1) FINDINGS.—The Congress finds that—

13 (A) the use of marine renewable energy  
14 technologies can reduce contributions to global  
15 warming gases, and such technologies can be  
16 produced domestically;

17 (B) marine renewable energy is a nascent  
18 industry; and

19 (C) the United States must work to pro-  
20 mote new renewable energy technologies that  
21 reduce contributions to global warming gases  
22 and improve our country's domestic energy pro-  
23 duction.

24 (2) ESTABLISHMENT.—The Secretary of En-  
25 ergy shall establish an Adaptive Management and

1 Environmental Fund, and shall provide grants from  
2 that fund to entities for the purpose of compliance  
3 with Federal, State, or local regulatory permit re-  
4 quirements to assess and demonstrate the environ-  
5 mental effects of marine renewable energy projects.  
6 Compliance costs for which funds made available  
7 under this paragraph may be used include environ-  
8 mental studies, design, fabrication, deployment, op-  
9 erating, monitoring, environmental mitigation, and  
10 decommissioning costs.

11 (3) ELIGIBILITY.—In order for an entity to be  
12 eligible for a grant under this subsection, the regu-  
13 latory permit must include conditions for the re-  
14 moval of the marine renewable energy project based  
15 on findings by the permitting authority that the ma-  
16 rine renewable energy project has unacceptable ad-  
17 verse impacts on the environment. Project removal  
18 shall not be required in the absence of findings by  
19 the permitting authority that the project has such  
20 unacceptable adverse impacts.

21 (4) PUBLIC AVAILABILITY.—The results of any  
22 assessment or demonstration funded under this sub-  
23 section shall be made available to the public, except  
24 to the extent that they contain information that is

1       protected from disclosure under section 552(b) of  
2       title 5, United States Code.

3           (5) AUDIT REQUIREMENTS.—Any developer ac-  
4       cepting funding from the Adaptive Management and  
5       Environmental Fund shall be required to track pay-  
6       ments received from the Fund, and certify annually  
7       that Fund payments were utilized only for purposes  
8       authorized under this subsection. The Secretary of  
9       Energy shall establish rules to oversee and audit de-  
10      veloper use of funds. At a minimum, audits must  
11      take place on an annual basis. The Secretary of En-  
12      ergy may declare a developer ineligible for continued  
13      participation in the Adaptive Management and Envi-  
14      ronmental Fund upon a finding of inappropriate use  
15      of funding.

16           (6) SUNSET.—The Secretary of Energy shall  
17      transmit a report to the Congress when the Sec-  
18      retary of Energy determines that the technologies  
19      supported under this subsection have achieved a  
20      level of maturity sufficient to enable the expiration  
21      of programs under this subsection. The Secretary of  
22      Energy shall not make any new grants under this  
23      subsection after the report is transmitted under this  
24      paragraph.

1           (7) ADDITIONAL ENVIRONMENTAL FUNDS.—  
 2       State resource agencies that are processing applica-  
 3       tions for permits required for marine renewables  
 4       projects that have received disbursements from the  
 5       Fund under this subsection are eligible to seek fund-  
 6       ing to assist staff with understanding and evaluating  
 7       applications and participating in the Federal Energy  
 8       Regulatory Commission or Minerals Management  
 9       Service regulatory process.

10           (8) NATIONAL ENVIRONMENTAL POLICY ACT OF  
 11       1969.—Nothing in this subsection shall be construed  
 12       as eliminating or minimizing a developer’s obliga-  
 13       tions to comply with the requirements of the Na-  
 14       tional Environmental Policy Act of 1969.

15       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 16       are authorized to be appropriated to the Secretary of En-  
 17       ergy for carrying out this section \$250,000,000 for each  
 18       of the fiscal years 2010 through 2021.

19       **SEC. 4. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR**  
 20                               **EQUIPMENT WHICH PRODUCES ELECTRICITY**  
 21                               **FROM MARINE RENEWABLES.**

22       (a) IN GENERAL.—Subclause (III) of section  
 23       168(e)(3)(B)(vi) of the Internal Revenue Code of 1986 is  
 24       amended to read as follows:



1 “(III) is described in section  
2 45(d)(11) (without regard to any  
3 placed in service date), and converts  
4 marine and hydrokinetic renewable  
5 energy (as defined in section  
6 45(c)(10)) into useable energy/elec-  
7 tricity, and”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to property placed in service after  
10 the date of the enactment of this Act.

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